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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**FAMILYCARE, INC.**, an Oregon non-profit corporation,

Plaintiff,

v.

**OREGON HEALTH AUTHORITY**, an agency of the State of Oregon, **PATRICK ALLEN**, both individually and in his official capacity as director of the Oregon Health Authority, and **LYNNE SAXTON**,

Defendants.

Case No. 6:18-cv-00296-MO

**DECLARATION OF MATTHEW J. MERTENS IN SUPPORT OF FAMILYCARE, INC.'S MOTION TO DOWN-DESIGNATE AEO DOCUMENTS**

DECLARATION OF MATTHEW J. MERTENS IN  
SUPPORT OF FAMILYCARE, INC.'S MOTION TO  
DOWN-DESIGNATE AEO DOCUMENTS

**Perkins Coie LLP**  
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I, Matthew J. Mertens, declare as follows:

1. I am an attorney with Perkins Coie LLP and one of the attorneys of record for plaintiff FamilyCare, Inc. (“FamilyCare” or “Plaintiff”) in the above-captioned case. I have been involved in aspects of discovery in this case. I am over the age of 18, make this declaration based on my personal knowledge, and could competently testify thereto if called to do so.

2. Attached as Exhibit 1 is a true and correct copy of the November 1, 2017, protective order (the “OHA Protective Order”).

3. Attached as Exhibit 2 is a true and correct copy of the January 17, 2018, protective order (the “Optumas Protective Order,” and together with the OHA Protective Order, the “Protective Orders”).

4. Attached as Exhibit 3 is a true and correct copy of FamilyCare’s February 1, 2019, submission to the Court.

5. In connection with FamilyCare’s submission of Exhibit 3 to the Court, FamilyCare created an FTP site and made the documents identified on Exhibit 3 available for download to counsel for the CCOs.

6. Attached as Exhibit 4 is a true and correct copy of the FTP site access logs. The FTP site assigned a unique “Username” to each attorney who requested access to the FTP site. The FTP site also tracked which “Usernames” downloaded the files from the site. The “Usernames” associated with each attorney who downloaded files were as follows:

- a. actspbbmo7p0z339: Frank Langfitt, counsel for Eastern Oregon CCO.
- b. qls73q0c47108161: Jeff Hern, counsel for Trillium.
- c. z9jflm60fuc0buac: Elizabeth Knight, counsel for AllCare.
- d. a8rf397ae9fxeup6: Daniel Larsen, counsel for Columbia Pacific and Jackson Care Connect.

7. Attached as Exhibit 5 is a true and correct copy of the October 9, 2019, joint letter from Eastern Oregon CCO and FamilyCare.

8. Attached as Exhibit 6 is a true and correct copy of FamilyCare's June 9, 2020, letter to the Court.

9. On August 2, 2020, I conferred with the Perkins Coie senior e-discovery analyst who set up the FTP site to make the 729 documents identified on Exhibit 6 available for download to the CCOs. I asked the senior analyst which attorneys, if any, had downloaded the 729 documents identified on Exhibit 6 from the FTP site and was informed that counsel for Health Share and Trillium had downloaded the documents.

10. Attached as Exhibit 7 is a true and correct copy of a June 12, 2020, email from the Court to counsel.

11. Attached as Exhibit 8 is a true and correct copy of a July 1, 2020, letter from FamilyCare to the CCOs.

12. Attached as Exhibit 9 is a true and correct copy of email correspondence between myself and Chris Thompson, counsel for Optumas.

13. Attached as Exhibit 10 is a true and correct copy of FamilyCare's August 14, 2020, letter to Trillium.

14. Attached as Exhibit 11 is a true and correct copy of email correspondence between myself and Matt Yium, counsel for PacificSource.

15. Attached as Exhibit 12 is a true and correct copy of a November 5, 2020, letter from FamilyCare to Trillium.

16. Attached as Exhibit 13 is a true and correct copy of a December 11, 2020, letter from Optumas to FamilyCare.

17. Attached as Exhibit 14 is a true and correct copy of a December 18, 2020, letter from FamilyCare to Optumas.

18. Attached as Exhibit 15 is a true and correct copy of a December 21, 2020, letter from Optumas to FamilyCare.

19. Attached as Exhibits 16 through 19 are true and correct copies of materials that Perkins Coie received from OHA in discovery.

*I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.*

DATED: February 5, 2021

/s/ Matthew J. Mertens

Matthew J. Mertens